

Appl. No.: 09/831,432  
Group Art Unit: 1751  
Applicants' Reply to Paper No. 8

### REMARKS

Claims 14-36 are currently pending in the present application.

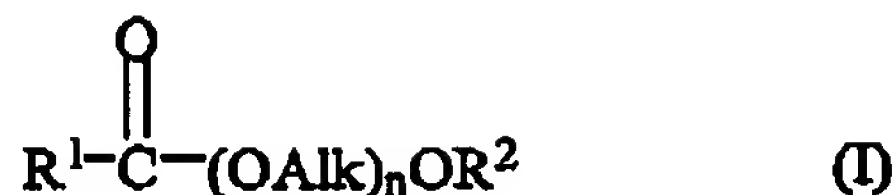
In Paper No. 8, the Examiner rejects claims 14-36 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,753,606 of Hees, *et al.* (hereinafter referred to as "Hees"), in view of U.S. Patent No. 5,759,987 of Haerer, *et al.* (hereinafter referred to as "Haerer"). Specifically, the Examiner contends that Hees discloses a low foaming cleaning composition for hard surfaces which contains from 0.1 to 50% by weight of an alkyl polyglycoside, fatty acid alkyl ester alkoxylates of the disclosed formula (II), and additional surfactants. The Examiner specifically cites Example 11 of Hees. The Examiner further contends that Hees discloses "all of the instantly required [elements] except applicant's additional *N*-alkyl glucamide nonionic surfactant." (See, Paper No. 8, p. 3). The Examiner further contends that Haerer discloses a hard surface cleaning composition which contains "mixed ethers, glycol ethers and further nonionic surfactants such as alkyl polyglycoside and/or fatty acid *N*-alkyl glucamide surfactants." (See, *id.*).

The Examiner argues that it would have been obvious to one of ordinary skill in the art to have included the *N*-alkyl glucamide type nonionic surfactant of Haerer in the compositions of Hees, "because Hees *et al* invite the inclusion of nonionic surfactants such as alkyl polyglycosides and Haerer *et al* suggest the alkyl polyglycosides and *N*-alkyl glucamides are functional equivalent nonionic surfactants for hard surface cleaning compositions." (See, *id.*). The Examiner further argues that one of ordinary skill in the art would expect synergistic and/or beneficial results from including an *N*-alkyl glucamide in the composition of Hees. On these bases, the Examiner argues that a *prima facie* case of obviousness has been established.

Applicants respectfully disagree, and traverse the Examiner's rejection and the arguments and contentions set forth in support thereof for the following reasons.

Applicants' claimed invention is directed to methods of *rinsing* machine-washed tableware materials, said method comprising: (a) providing a rinse agent comprising an alkoxylated carboxylic acid ester of the general formula (I):

Appl. No.: 09/831,432  
 Group Art Unit: 1751  
 Applicants' Reply to Paper No. 8



wherein  $\text{R}^1\text{C}(\text{O})$  represents an aliphatic acyl group, each  $\text{AlkO}$  independently represents an alkoxyate selected from the group consisting of  $\text{CH}_2\text{CH}_2\text{O}$ ,  $\text{CHCH}_3\text{CH}_2\text{O}$  and  $\text{CH}_2\text{CHCH}_3\text{O}$ ,  $n$  is a number of from 1 to 20, and  $\text{R}^2$  represents an aliphatic alkyl group; and (b) contacting a tableware material surface with the *rinse* agent during machine washing of the tableware material surface. Another embodiment of Applicants' claimed invention is directed to rinsing agents comprising: (a) an alkoxyated carboxylic acid ester of the general formula (I); and (b) an acid selected from the group consisting of monocarboxylic acids, polycarboxylic acids, and mixtures thereof.

In order to establish *prima facie* obviousness, and thus shift the burden of proving non-obviousness onto Applicants, the Examiner must show all of the following three criteria: (1) there must be some suggestion or motivation to modify or combine the references as suggested by the Examiner (it is not sufficient to say that the cited references can be combined or modified without a teaching in the prior art to suggest the desirability of the modification); (2) there must also be a reasonable expectation of success; and (3) the references as combined must collectively teach or suggest all limitations of the claims. The teaching or suggestion to combine and modify the cited art and the reasonable expectation of success must both be found in the prior art and not in the Applicant's Specification. (M.P.E.P. §2143).

Applicants respectfully submit that a *prima facie* case of obvious has not been established based upon the cited references.

To begin with, the cited references do not teach or suggest each and every element of the claimed invention. Applicants' claimed invention is directed to a method of rinsing machine-washed tableware. As noted in Applicants' Specification, a desirable property of rinse agents, which Applicants' inventive rinse agent possesses, is to simultaneously provide outstanding wetting while also providing excellent foam suppression. (See, Applicants' Specification, p. 3, lines 23-24).

Appl. No.: 09/831,432  
Group Art Unit: 1751  
Applicants' Reply to Paper No. 8

Hees is directed to detergent or cleaning compositions which are low-foaming. This does not equate to foam suppression. As described in Hees, the compositions disclosed therein do create foam, but are designed to allow visible foam reduction within two minutes. (See, Hees, col. 2, lines 2-5). Again, visible foam reduction is not foam suppression. Hees is not directed to improving rinsing after tableware has already been subjected to soil removal by contact with a detergent.

As discussed in Applicants' Specification, rinsing during machine-washing of tableware occurs after the wash program. (See, Applicants' Spec., p. 1, lines 12-16). Hees does not teach or suggest the claimed method wherein a rinse agent comprising an alkoxylated carboxylic acid ester of formula (I) is contacted with tableware during machine-washing. Haerer does not remedy this deficiency of Hees. Haerer, while directed to rinse aids, does not teach or suggest the use of the claimed alkoxylated carboxylic acid esters of formula (I) as rinse aid components.

There is no teaching or suggestion in Hees which would motivate one of ordinary skill in the art to use the low-foam detergents disclosed therein as rinse agents in machine dishwashing. Given that Hees discloses a two minute duration of foam producing with the mild agitation of manual washing, one of ordinary skill in the art would have no reasonable expectation of successfully using such detergent compositions as a rinse aid in machine washing as the foam generation would be even greater under the increased agitation. Again, Haerer fails to remedy this deficiency. Haerer does not suggest the incorporation of a foaming composition such as that disclosed in Hees into the rinse aids disclosed in Haerer.

Accordingly, Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness, as none of the three criteria necessary to establish a *prima facie* case of obviousness has been satisfied. Thus, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103(a).

In view of the comments set forth above, Applicants submit that all pending claims patentably distinguish over the prior art of record and known to Applicants, either alone

Appl. No.: 09/831,432  
Group Art Unit: 1751  
Applicants' Reply to Paper No. 8

or in combination. Accordingly, reconsideration, withdrawal of the rejection and a Notice of Allowance for all pending claims are respectfully requested.

Respectfully submitted,

**RITA KOESTER, et al.**

March 31, 2004  
(Date):

By: 

AARON R. ETTELMAN

Registration No. 42,516

**COGNIS CORPORATION**

300 Brookside Avenue

Ambler, PA 19002

Telephone: (215) 628-1413

Facsimile: (215) 628-1345

E-Mail: AARON.ETTELMAN@COGNIS-US.COM

ARE:are